

STATE OF INDIANA)
)
COUNTY OF JACKSON) IN THE JACKSON CIRCUIT COURT
) SS:
) CAUSE NO. 36C01 0610 PL 19

STATE OF INDIANA,)
)
 Plaintiff,)
)
 v.)
)
JENNIFER RUZICKA, individually, and)
SERENITY SALON & DAY SPA)
OF COLUMBUS, INC.,)
)
 Defendants.)

**PLAINTIFF'S SECOND AMENDED COMPLAINT FOR INJUNCTION,
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Lisa Ward, petitions the Court, pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, for injunctive relief, consumer restitution, investigative costs, civil penalties, and other relief.

PARTIES

1. The Plaintiff, State of Indiana is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).

2. The Defendant, Serenity Salon & Day Spa of Columbus, Inc. ("Serenity"), is an Indiana corporation which at all relevant times maintained a principal place of business located at 3780 West Jonathan Moore Pike, Ste. 150, Columbus, Indiana. Serenity discontinued operations on or about February 1, 2006.

3. Defendant, Jennifer Ruzicka ("Ruzicka"), is a resident of Jackson County, and was at all relevant times the owner and an officer of Serenity, and was active in its management and operations. As owner, Ruzicka controlled and directed the affairs of



the corporation, including Serenity's advertising and sales practices, and used the defendant corporation for the purpose of misleading and deceiving Indiana consumers as set forth herein.

4. When, in this Complaint, reference is made to any act of Defendants, such allegations shall be deemed to mean that the principals, agents, representatives, or employees of Defendants did or authorized such acts to be done while actively engaged in the management, direction, or control of the affairs of Defendants and while acting within the scope of their duties, employment, or agency.

FACTS

5. From approximately August 13, 2004 until approximately February 1, 2006, Defendants regularly provided salon and spa services to Indiana consumers.

6. On August 5, 2005, Defendant Serenity was served with an eviction notice by its landlords. A lawsuit was filed in connection with the eviction notice on December 27, 2005.

7. On October 14, 2005, Defendant Ruzicka filed for Chapter 7 Bankruptcy. She was granted a discharge from the Bankruptcy Court on March 14, 2006.

8. After both receiving the eviction notice and the filing of Ruzicka's bankruptcy petition, Defendants continued to sell gift cards to consumers to be redeemed for future salon and spa services at Serenity. Defendants were still selling gift cards as little as two (2) days prior to closing the business. A representative copy of Defendants' gift card is attached and incorporated by reference as Exhibit "A."

9. The Defendants sold gift cards to the following consumers, receiving payment in the following amounts:

	Name	Date	Amount
a.	Sara Abner	12/2005	\$115.00
b.	Katherine Allen	12/2005	\$40.00
c.	Colleen Anderson	12/2005	\$115.00
d.	Susan D. Bailey	12/2005	\$117.00
e.	Dana Blythe	12/2005	\$125.00
f.	Ashley Bramble	12/2005	\$100.00
g.	Tanya L. Bauman	11/08/2005	\$100.00
h.	Kathy J. Brown	12/05/2005	\$65.00
i.	Loretta Burd	12/05/2005	\$215.00
j.	Pamela Burns	01/06/2006	\$150.00
k.	Michael E. Chapman	12/10/2005	\$250.00
l.	Cindy Corya	12/24/2005	\$185.00
m.	Julie S. Deckard	12/25/2005	\$150.00
n.	Joyce A. Doerr	12/25/2005	\$70.00
o.	John A. Duty	12/16/2005	\$120.00
p.	Joann A. England	12/2005	\$295.00
q.	Steven England	12/2005	\$200.00
r.	Michelle L. French	12/20/2005	\$140.00
s.	Michelle R. Fouch	12/07/2006	\$50.00
t.	Kelly Glick	12/2005	\$80.00

u.	Jodi Graham	12/22/2005	\$175.00
v.	Ronna Hall	12/23/2005	\$140.00
w.	Rachelle Hensley	12/2005	\$200.00
x.	Jackie Hien	12/2005	\$65.00
aa.	Peggy Hendershot	12/23/2005	\$100.00
bb.	Lacy Hoeltke	12/2005	\$115.00
cc.	Christina Hoffer	01/18/2006	\$60.00
dd.	Amanda Hoffman	01/22/2006	\$40.00
ee.	Janet Hollman	11/2005	\$70.00
ff.	Joyce Howard	12/2005	\$70.00
gg.	Cheryl Jessie	12/2005	\$200.00
hh.	John & Cynthia Kalill	12/24/2005	\$200.00
ii.	Victoria Kessler	12/2005	\$65.00
jj.	Chad Klindt	11/30/2005	\$75.00
kk.	Crystal Lucas	12/23/2005	\$115.00
ll.	Marcia Lyons	12/2005	\$260.00
mm.	Mary Mahoy	10/30/2005	\$300.00
nn.	Angela Marshall	12/2005	\$300.00
oo.	Donna Maxie	12/2005	\$100.00
pp.	Stacy McMullen	12/2005	\$115.00
qq.	Heather Mullally	12/10/2005	\$130.00
rr.	Melodie O'Neal	12/2005	\$40.00
ss.	Leah Newton	12/2005	\$40.00

tt.	Kurt Nunemaker	12/20/2005	\$85.00
uu.	April Pepmeier	12/23/2005	\$50.00
vv.	Linda Phillips	12/2005	\$50.00
ww.	Laura Reynolds	12/2005	\$95.00
xx.	Susanne Ricketts	12/21/2005	\$115.00
aaa.	Mark Ritz	12/2005	\$125.00
bbb.	Barbera Rickers	12/9/2005	\$150.00
ccc.	Debbie Ritz	12/18/2005	\$115.00
ddd.	Daria Schooler	12/2005	\$120.00
eee.	Courtney Searle	12/14/2005	\$100.00
fff.	Kami Simpson	12/20/2005	\$160.00
ggg.	Jennifer Smith	12/05/2005	\$120.00
hhh.	Sonya Simmons	12/2005	\$175.00
iii.	Rick Stepp	12/2005	\$120.00
jjj.	Gloria Steyer	12/2005	\$170.00
kkk.	Marcella Templeton	01/30/2006	\$115.00
lll.	Les Wantz	12/13/2005	\$60.00
mmm.	Scott Ward	12/2005	\$145.00
nnn.	Katherine Wells	12/2005	\$250.00
ooo.	Dana Weisner	12/20/2005	\$40.00
ppp.	Terra Williams	12/22/2005	\$300.00
qqq.	Christina A. Wright	12/2005	\$150.00
rrr.	Carolyn A. Wright	12/2005	\$60.00

sss.	Elizabeth A. Youngman	12/2005	\$60.00
ttt.	Judy Ziegler	12/2005	\$58.00
uuu.	Doneda Henry	12/2005	\$85.00
vvv.	Martha Bricker	01/2006	\$175.00
www.	Amanda Burton	12/22/2005	\$100.00
xxx.	Mabryan Hutchins	12/16/2005	\$115.00
yyy.	Colleen Larivee	12/9/2005	\$120.00
zzz.	Michelle Sims	11/21/2005	\$65.00
aaaa.	Jill Whitaker	12/6/2005	\$115.00
bbbb.	Marianne Wohlford	12/27/2005	\$85.00
cccc.	Ramona Bosnyak	12/14/2005	\$150.00
dddd.	Amy Shrum	12/21/2005	\$80.00
eeee.	Jane Cooney	11/3/2005	\$90.00
ffff.	Jill Beckemeyer	12/2005	\$100.00
gggg.	Christine Guthrie	1/30/2006	\$120.00
hhhh.	Lynn Sexton	12/2005	\$ 60.00
iiii.	Jeanine Hulse	11/13/2005	\$115.00
jjjj.	Betty Saddler	12/05	\$50.00
kkkk.	Jill Forster	12/16 and 12/22/2005	\$150.00

10. Upon delivery of the gift card to the purchaser, the Defendants represented that the holder of the card was entitled to purchase goods or services in an amount equal to the monetary value of the card.

11. Pursuant to Indiana Code § 24-5-0.5-3(a)(10), at the time the gift cards were sold, Defendants are presumed to have represented that the gift cards could be redeemed for a reasonable time, according to the course of dealing or usage of the trade.

12. When the Defendants' salon and day spa closed on or about February 1, 2006, consumers, including but not limited to those identified in paragraph 9 above, were unable to redeem the value of their gift cards, which became worthless.

13. To date, the Defendants have not refunded or otherwise honored said gift cards.

14. At the time the gift cards were sold, the Defendants knew, or should reasonably have known, that the gift cards would not be honored.

COUNT I - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

15. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 14 above.

16. The transactions identified in paragraph 9 are "consumer transactions" as defined by Ind. Code §24-5-0.5-2(1).

17. The Defendants are "suppliers" as defined in Ind. Code §24-5-0.5-2(3).

18. By selling gift cards to consumers after receiving an eviction notice, Defendants represented to consumers that the gift cards had characteristics, uses, or benefits that they did not have and which Defendants knew or reasonably should have known they did not, in violation of Ind. Code §24-5-0.5-3(a)(1).

19. By selling gift cards to consumers after receiving an eviction notice, Defendants represented to consumers that they would be able to deliver salon and spa

services within a reasonable time period, when they knew or reasonably should have known that they could not, in violation of Ind. Code § 24-5-0.5-3(a)(10).

20. By selling gift cards to consumers after receiving the eviction notice, Defendants represented to consumers that they would be able to purchase salon and spa services, as advertised by Defendants, when the Defendants did not intend to sell them, in violation of Ind. Code § 24-5-0.5-3(a)(11).

**COUNT II – KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

21. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 20 above.

22. The misrepresentations and deceptive acts set forth above were committed by the Defendants with knowledge and intent to deceive.

RELIEF

WHEREFORE, Plaintiff, State of Indiana, requests that the Court enter judgment against the Defendants, Jennifer Ruzicka, individually, and Serenity Salon and Day Spa of Columbus, Inc., enjoining the Defendants, their agents, representatives, employees, successors, and assigns from the following:

a. Representing, expressly or by implication, that the subject of a consumer transaction has performance, characteristics, uses, or benefits it does not have, which the Defendants know or reasonably should know it does not have;

b. Representing, expressly or by implication, that the Defendants are able to deliver or complete the subject of a consumer transaction within a

reasonable period of time, when the Defendants know or should reasonably know they can not.

c. Representing, expressly or by implication, that the consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, if the Defendants do not intend to sell it.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendants for the following relief:

a. Consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the form of reimbursement of funds remitted by consumers for the purchase of gift cards after October 14, 2005, in an amount to be determined at trial;

b. Costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

c. On Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g), for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;

d. On Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and

e. All other proper relief.

Respectfully submitted,

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